

AMENDED IN ASSEMBLY APRIL 2, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1182

Introduced by Assembly Member Ridley-Thomas

February 21, 2003

An act to amend ~~Section 8856~~ *Sections 8855, 8856, and 91555* of, to amend the heading of Chapter 11.5 (commencing with Section 8855) of Division 1 of Title 2 of, and to repeal Section 8858 of, the Government Code, *and to amend Section 44533 of the Health and Safety Code*, relating to ~~the California Debt and Investment Advisory Commission~~ *government financing*.

LEGISLATIVE COUNSEL'S DIGEST

AB 1182, as amended, Ridley-Thomas. ~~California Debt and Investment Advisory Commission~~ *Government financing*.

(1) Existing law ~~authorizes~~ *requires* the California Debt and Investment Advisory Commission, *among other things, to collect, maintain, and provide comprehensive information on all state and local debt authorization, sold and outstanding. Existing law authorizes the commission* to charge fees to the lead underwriter or the purchaser in a debt issue in a specified amount, to be deposited in the California Debt and Investment Advisory Commission Fund, and to be available, when appropriated, for expenses of the commission and the Treasurer.

This bill *instead would require the commission to collect, maintain, and provide that information on all state and local debt authorization and issuance. The bill* would additionally authorize the commission to establish and charge fees in connection with its continuing education programs, and to receive and accept gifts, grants, or donations of

moneys, goods, or services from specified entities for achieving any of the purposes of the commission, to be deposited into the fund under these provisions.

(2) Existing law requires the commission to prepare an annual report compiling and detailing the total amount of outstanding state and local public debt and examining recent trends in the composition of that outstanding debt, subject to specified criteria.

This bill would repeal this provision.

(3) *Existing law establishes the California Industrial Development Financing Advisory Commission with specified powers and duties.*

This bill would authorize that commission to receive and accept gifts, grants, or donations of moneys, goods, or services from specified entities for achieving any of the purposes of that commission, as specified.

(4) *Existing law provides that no project or portion of a project is eligible for financing under the California Pollution Control Financing Authority Act if at the time an application is submitted financing has otherwise been obtained.*

This bill would delete that prohibition.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The heading of Chapter 11.5 (commencing with
2 Section 8855) of Division 1 of Title 2 of the Government Code is
3 amended to read:

4
5 CHAPTER 11.5. CALIFORNIA DEBT AND INVESTMENT ADVISORY
6 COMMISSION
7

8 SEC. 2. *Section 8855 of the Government Code is amended to*
9 *read:*

10 8855. (a) There is created the California Debt and Investment
11 Advisory Commission, consisting of nine members, selected as
12 follows:

13 (1) The Treasurer, or his or her designee.

14 (2) The Governor or the Director of Finance.

15 (3) The Controller, or his or her designee.

1 (4) Two local government finance officers appointed by the
2 Treasurer, one each from among persons employed by a county
3 and by a city or a city and county of this state, experienced in the
4 issuance and sale of municipal bonds and nominated by
5 associations affiliated with these agencies.

6 (5) Two Members of the Assembly appointed by the Speaker
7 of the Assembly.

8 (6) Two Members of the Senate appointed by the Senate
9 Committee on Rules.

10 (b) (1) The term of office of an appointed member is four
11 years, but appointed members serve at the pleasure of the
12 appointing power. In case of a vacancy for any cause, the
13 appointing power shall make an appointment to become effective
14 immediately for the unexpired term.

15 (2) Any legislators appointed to the commission shall meet
16 with and participate in the activities of the commission to the
17 extent that the participation is not incompatible with their
18 respective positions as Members of the Legislature. For purposes
19 of this chapter, the Members of the Legislature shall constitute a
20 joint interim legislative committee on the subject of this chapter.

21 (c) The Treasurer shall serve as chairperson of the commission
22 and shall preside at meetings of the commission.

23 (d) Appointed members of the commission shall not receive a
24 salary, but shall be entitled to a per diem allowance of fifty dollars
25 (\$50) for each day's attendance at a meeting of the commission not
26 to exceed three hundred dollars (\$300) in any month, and
27 reimbursement for expenses incurred in the performance of their
28 duties under this chapter, including travel and other necessary
29 expenses.

30 (e) The commission may adopt bylaws for the regulation of its
31 affairs and the conduct of its business.

32 (f) The commission shall meet on the call of the chairperson,
33 at the request of a majority of the members, or at the request of the
34 Governor. A majority of all nonlegislative members of the
35 commission constitutes a quorum for the transaction of business.

36 (g) The office of the Treasurer shall furnish all administrative
37 and clerical assistance required by the commission.

38 (h) The commission shall do all of the following:

- 1 (1) Assist all state financing authorities and commissions in
2 carrying out their responsibilities as prescribed by law, including
3 assistance with respect to federal legislation pending in Congress.
- 4 (2) Upon request of any state or local government units, to
5 assist them in the planning, preparation, marketing, and sale of
6 new debt issues to reduce cost and to assist in protecting the
7 issuer's credit.
- 8 (3) Collect, maintain, and provide comprehensive information
9 on all state and all local debt authorization, ~~sold and outstanding~~
10 *and issuance*, and serve as a statistical clearinghouse for all state
11 and local debt issues. This information shall be readily available
12 upon request by any public official or any member of the public.
- 13 (4) Maintain contact with state and municipal bond issuers,
14 underwriters, credit rating agencies, investors, and others to
15 improve the market for state and local government debt issues.
- 16 (5) Undertake or commission studies on methods to reduce the
17 costs and improve credit ratings of state and local issues.
- 18 (6) Recommend changes in state laws and local practices to
19 improve the sale and servicing of state and local debts.
- 20 (7) Establish a continuing education program for local officials
21 having direct or supervisory responsibility over municipal
22 investments, and debt issuance. The commission shall undertake
23 these and any other activities necessary to disclose investment and
24 debt issuance practices and strategies that may be conducive for
25 oversight purposes.
- 26 (8) Collect, maintain, and provide information on local agency
27 investments of public funds for local agency investment.
- 28 (9) Publish a monthly newsletter describing and evaluating the
29 operations of the commission during the preceding month.
- 30 (i) The city, county, or city and county investor of any public
31 funds, no later than 60 days after the close of the second and fourth
32 quarters of each calendar year, shall provide the quarterly reports
33 required pursuant to Section 53646 and, no later than 60 days after
34 the close of the second quarter of each calendar year and 60 days
35 after the subsequent amendment thereto, provide the statement of
36 investment policy required pursuant to Section 53646, to the
37 commission by mail, postage prepaid, or by any other method
38 approved by the commission. The commission shall collect these
39 reports to further its educational responsibilities as described
40 under subdivision (e). Nothing in this section shall be construed to



1 create additional oversight responsibility for the commission or
2 any of its members. Sole responsibility for control, oversight, and
3 accountability of local investment decisions shall remain with
4 local officials. The commission shall not be considered to have any
5 fiduciary duty with respect to any local agency income report
6 received under this subdivision. In addition, the commission shall
7 not have any legal liability with respect to these investments.

8 (j) The commission, no later than May 1, 2006, shall report to
9 the Legislature describing its activities since the inception of the
10 local agency investment reporting program regarding the
11 collection and maintenance of information on local agency
12 investment reporting practices and how the commission uses that
13 information to fulfill its statutory goals.

14 (k) The issuer of any proposed new debt issue of state or local
15 government shall, no later than 30 days prior to the sale of any debt
16 issue at public or private sale, give written notice of the proposed
17 sale to the commission, by mail, postage prepaid. This subdivision
18 shall also apply to any nonprofit public benefit corporation
19 incorporated for the purpose of acquiring student loans. The notice
20 shall include the proposed sale date, the name of the issuer, the type
21 of debt issue, and the estimated principal amount of the debt.
22 Failure to give this notice shall not affect the validity of the sale.

23 (l) The issuer of any new debt issue of state or local
24 government, not later than 45 days after the signing of the bond
25 purchase contract in a negotiated or private financing, or after the
26 acceptance of a bid in a competitive offering, shall submit a report
27 of final sale to the commission by mail, postage prepaid, or by any
28 other method approved by the commission. A copy of the final
29 official statement for the issue shall accompany the report of final
30 sale. The commission may require information to be submitted in
31 the report of final sale that it considers appropriate.

32 *SEC. 3.* Section 8856 of the Government Code is amended to
33 read:

34 8856. (a) In carrying out the purposes of this chapter, the
35 commission may charge fees to the lead underwriter or the
36 purchaser in an amount equal to one-fortieth of 1 percent of the
37 principal amount of the issue, but not to exceed five thousand
38 dollars (\$5,000) for any one issue.

39 (b) The commission may establish and charge fees to
40 participants in any of its continuing education programs that it

determines are reasonably sufficient to cover all of the costs of the program. It may also charge a fee for materials produced in connection with a continuing education program to defray the publication, mailing, distribution, and administrative costs necessary to implement the program.

(c) The commission may receive and accept from any agency of the United States or any agency of the state, or any municipality, county, or other political subdivision of the state, or from any individual, association, or corporation, gifts, grants, or donations of moneys, goods, or services for achieving any of the purposes of this chapter, *including, but not limited to, similar registration sponsorships, marketing, resource materials, and publications.*

(d) Until fees are received by the advisory commission and appropriated pursuant to this chapter for the expenses of the commission and the Treasurer, the commission may borrow the moneys required for the purpose of meeting necessary expenses of initial organization and operation of the commission.

(e) Amounts received under this section shall be deposited in the California Debt and Investment Advisory Commission Fund, which is hereby created in the State Treasury. All ~~money~~ moneys in the fund shall be available, when appropriated, for expenses of the commission and the Treasurer.

SEC. 3.—

SEC. 4. Section 8858 of the Government Code is repealed.

SEC. 5. *Section 91555 of the Government Code is amended to read:*

91555. The commission may:

(a) Assist authorities in the planning, preparation, marketing, and sale of industrial development revenue bonds to reduce cost, protect the issuer's credit, and determine public benefits and detriments.

(b) Collect, maintain, and provide financial, economic, governmental, and social data on local government units pertinent to their ability to administer industrial development revenue bonds.

(c) Prepare guidelines or assist in preparation of informational documents necessary for such offerings.

(d) Collect, maintain, and provide information on debt authorized, sold and outstanding, and serve as a clearinghouse for local issues of industrial development revenue bonds.

1 (e) Maintain contact with municipal bond underwriters, credit
2 rating agencies, investors, and others to improve the market for
3 local government debt issues.

4 (f) Undertake or commission studies on methods to reduce the
5 costs of state and local issues.

6 (g) Recommend changes in state law and local practices to
7 improve the sale and servicing of such local bonds.

8 (h) *Receive and accept, from any agency of the United States,*
9 *any agency of the state, or any municipality, county, or other*
10 *political subdivision thereof, or from any individual, association,*
11 *or corporation, gifts, grants, or donations of moneys, goods, or*
12 *services for achieving any of the purposes of this chapter,*
13 *including, but not limited to, seminar registration sponsorships,*
14 *marketing, resource materials, and publications.*

15 SEC. 6. *Section 44533 of the Health and Safety Code is*
16 *amended to read:*

17 44533. (a) ~~No project, or portion thereof, shall be eligible for~~
18 ~~financing under this division for which, at the time an application~~
19 ~~is submitted to the authority, financing has been otherwise~~
20 ~~obtained.~~

21 ~~(b)~~ No project relating to the improvement of air or water
22 quality or solid waste control or related to the remediation of
23 property contaminated by a release of hazardous materials shall be
24 eligible for financing under this division unless, prior to the
25 issuance of bonds or notes, a local, regional, state, or federal
26 environmental authority exercising jurisdiction over the project
27 certifies that the project, as designed, will further compliance with
28 federal, state, or local pollution control standards and
29 requirements. Within 60 days of the receipt of a written request for
30 that certification by either the authority or a participating party, the
31 local, regional, state, or federal authority shall issue a written
32 certificate to that effect if, in fact, the project as designed, is in
33 furtherance of those purposes. The certification requirements of
34 this subdivision may be waived by the authority, at the request of
35 the participating party, if that certification is not necessary to
36 qualify the bonds or notes for tax-exempt status under federal laws
37 and regulations.

38 ~~(c)~~

39 (b) No certification issued pursuant to subdivision (b) shall be
40 admissible in evidence, constitute an admission, or bind any

1 certifying authority in any proceeding in which the compliance of
2 a participating party's facilities with any applicable pollution
3 control, land use, zoning, or other similar law is an issue or in any
4 application or proceeding for a permit to locate or construct
5 facilities.

O

